

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 11-5102****September Term, 2013****1:10-cv-01020-RJL****Filed On:** September 16, 2013

Abdul Razak Ali, Detainee,

Appellant

v.

Barack Obama, President, et al.,

Appellees

**BEFORE:** Kavanaugh, *Circuit Judge*; Edwards and Williams, *Senior Circuit Judges*

**ORDER**

It is, on the Court's own motion,

**ORDERED** that the amending order filed September 11, 2013, is hereby vacated.

On September 9, 2013, on behalf of the Court, an official in the Clerk's office requested that Government counsel submit complete copies of five classified documents contained in the record in redacted form. This request was confirmed by an Order issued on September 11, 2013, and sent to both parties.

In a motion dated September 12, 2013, Appellant strongly objected to this Court's reviewing, *ex parte* and *in camera*, matters that are not part of the record on appeal. See Notice of Opposition to Panel's Suggestion of *Ex-Parte* Consideration of Matters *Dehors* the Record (Sept. 12, 2013). In that motion, Appellant asked "this Court to refrain from conducting its proposed *in camera* and *ex-parte* review of the unredacted documents which are *dehors* the record in this matter." *Id.* at 7.

On September 13, 2013, in a letter accompanying the unredacted documents, the Government indicated that it was providing the Court with unredacted versions of the cited documents for *in camera* review by the Judges. Letter from Douglas N. Letter to Mark J. Langer, Clerk of Court, Sept. 13, 2013. In this letter, the Government submitted that

these unredacted documents were not in the district court record and are not part of the record on appeal. The government has not relied on the material beneath the redactions in district court and does not rely on that material in

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this Court. Accordingly, we believe this Court should not rely on these extra-record materials on appeal, especially in light of the highly sensitive nature of some of the classified material in the documents. It should instead consider this appeal based on the redacted versions of these documents that are in the record and have been served on opposing counsel.

*Id.*

In his appeal to this Court, Appellant has not challenged the inclusion of redacted versions of the documents in the appellate record, nor has Appellant challenged the District Court's reliance on these redacted documents. Therefore, the parties agree that the redacted portions of the cited documents are not part of the record on appeal.

Having carefully considered the record on appeal and the parties' submissions regarding the redacted materials, the Court will not rely on the unredacted materials offered by the Government. The unredacted materials have been returned to the Government.

**Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Lynda M. Flippin

Deputy Clerk